IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE NINTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 13977 of 2004

Between:

Jajjara Vijay Kumar, S/o. Jalaiah, R/o. Madanur Post, Kothapatnam Mandal, Prakasam District.

..... PETITIONER

AND

1 The Joint Collector-Ongole, Office at Ongole, Prakasam District.
2 The Revenue Divisional Officer, Ongole, Prakasam District.
3 Kannedari Srinivas Rao, S/o. Venkayya, Hindu, R/o.Madanu(V) and Post, Kothapatnam(M), Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of "Writ of Mandamus" declaring the action of the respondents issuing the impugned proceedings R.C.C/841/04, dt. 21-07-2004, also the consequential order passed in Rc. CS2/2432/04 dt.NIL/7-2004 as illegal, arbitrary and violative of the Principle of Natural of Justice, and also violative of the "Andhra Pradesh State Public Distribution System Control Order 2001", also violative of Article 14, 19 and 21 of the Constitution of India.

Counsel for the Petitioner: MR.UNNAM.MURALIDHAR RAO

Counsel for the Respondent Nos.1 and 2: GP FOR CIVIL SUPPLIES

Counsel for the Respondent No.3: ---

The Court made the following:

ORDER:

The petitioner is the authorised Fair Price Shop Dealer in respect of Fair Price Shop No.1, Madanur village, Kothapatnam Mandal, Prakasam District. His authorization has been suspended pending enquiry into certain alleged irregularities vide proceedings of the 2nd respondent dated 21-07-2004. Against the said order, he preferred an Appeal before the first respondent.

This writ petition is filed against the order of the first respondent dated 27.07.2004 whereunder the first respondent while entertaining the appeal preferred by the petitioner against the order of suspension pending enquiry dated 21.07.2004, rejected the application for stay.

I have heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies appearing for the respondents.

The learned counsel for the petitioner contends that all the allegations made against the petitioner in the show-cause notice dated 21.07.2004 are false and baseless and at any rate they are trivial in nature and therefore, the first respondent is not justified in rejecting the application for stay pending appeal.

A perusal of the impugned order of the first respondent shows that the said order has been passed mechanically without reference to anyone of the contentions raised by the petitioner and without assigning any reasons for rejecting the stay pending Appeal.

Having regard to the facts and circumstances of the case and particularly keeping in view the fact that the statutory appeal against the order of suspension is pending, I am of the view that the balance

of convenience is in favour of the petitioner and it would be appropriate to continue the petitioner to distribute the essential commodities till the disposal of the appeal. Accordingly, the impugned order of the first respondent dated 27.07.2004 is set aside and the writ petition is disposed of with a direction to the first respondent to consider and dispose of the main appeal itself in accordance with law as expeditiously as possible, preferably within a period of four weeks from the date of receipt of a copy of this order.

It is made clear that till the appeal is disposed of, the order of suspension dated 21.07.2004 shall not be given effect to.

_____

09.08.2004

VGB

To

1 The Joint Collector-Ongole, Office at Ongole, Prakasam District.
2 The Revenue Divisional Officer, Ongole, Prakasam District.
3 2CCs to the Govt. Pleader for Civil Supplies, High Court Buildings, Hyderabad (OUT)

4 2CD copies